(1) Supreme Court, U.S.
FILED
991656 APR 7 2000
OFFICE OF THE CLERK

No.

IN THE
Supreme Court of the United States

CITY OF SHREVEPORT,
Petitioner,

versus

HELEN SIMPSON,
Respondent.

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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38 pp

QUESTION PRESENTED

May a plaintiff prevail on a constructive discharge claim under Title VII of the Civil Rights Act of 1964 despite having attempted to rescind her resignation the day after resigning?

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IN THE
Supreme Court of the United States

NO.

CITY OF SHREVEPORT,
Petitioner,

versus

HELEN SIMPSON,
Respondent.

Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit

Petitioner City of Shreveport respectfully requests that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit entered on January 10, 2000.

OPINION BELOW

The unreported opinion of the United States Court of Appeals for the Fifth Circuit appears in Appendix A to the petition. The Jury Interrogatories, Judgment, and Minutes of the District Court appear in Appendix B.

JURISDICTION

The jury returned a verdict for the plaintiff and judgment was entered by the United States District Court for the Western District of Louisiana on July 13, 1998. The

United States Court of Appeals for the Fifth Circuit affirmed the jury verdict on January 10, 2000.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

STATUTORY PROVISIONS INVOLVED IN THE CASE

42 U.S.C. §2000e-2

(a) Employer Practices

It shall be an unlawful employment practice for an employer –

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

STATEMENT OF THE CASE

Plaintiff Helen Simpson ("Simpson") brought this sexual harassment, racial harassment, constructive discharge, and retaliation suit against her former employer, the City of Shreveport ("the City"). (Appendix A, 5th Circuit Opinion, pg. A-4)[1]. The jurisdiction of the district court was invoked under Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C. §2000e et seq., and under 20 U.S.C. §1331.

Simpson claimed that the harassment and subsequent retaliation she suffered while employed by the City were so severe and so pervasive that she was forced to resign her employment. (5th Cir. Opin. pg. A-4). Simpson, however, had worked only 12 days in the six months preceding her resignation due to a back injury, and had not worked at all during the two weeks prior to her resignation on November 25, 1996. (5th Cir. Opin. pg. A-4). The day after she resigned, Simpson attempted to withdraw her resignation. (5th Cir. Opin. pg. A-4).

In the district court, the jury found for Simpson on her sexual harassment, constructive discharge, and retaliation claims; found against Simpson on her racial harassment claim; and awarded Simpson $150,000 in compensatory damages. (5th Cir. Opin. pg. A-4). The district court denied the City's Rule 50 motion for a judgment of law with respect to Simpson's constructive discharge and retaliation claims. (Appendix B, Minutes of the District Court, pp. A-23 - A-24;

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[1]The Opinion of the United States Court of Appeals for the Fifth Circuit appears in Appendix A and will hereafter be cited as (5th Cir. Opin., pg. __).

5th Cir. Opin. pg. A-4). The City appealed the district court's ruling on the Rule 50 motion, but the ruling was affirmed by the United States Court of Appeals for the Fifth Circuit on January 10, 2000. (5th Cir. Opin. pg. A-11). The Fifth Circuit summarily rejected the City's argument regarding Simpson's attempt to rescind her resignation, stating in footnote 6, "[w]e are not persuaded that attempting to rescind one's resignation entitles the City to judgment as a matter of law." (5th Cir. Opin. pp. A-9 - A-10, FN 6).

REASONS FOR GRANTING THE WRIT

The City asserts that, as a matter of law, a plaintiff should not be able to prevail on a constructive discharge claim where the plaintiff has attempted to get her job back following her resignation. A plaintiff may not prevail on a constructive discharge claim unless the plaintiff demonstrates that "the employer made the employee's working conditions so intolerable that a reasonable employee would feel compelled to resign." *Ward v. Bechtel Corp.*, 102 F.3d 199, 202 (5th Cir. 1997). A subsequent attempt by the plaintiff to rescind her resignation in order to regain her job in the identical work environment from which she resigned demonstrates that the working conditions were not "intolerable." No reasonable employee would seek to regain employment in an environment that was truly "intolerable." Accordingly, an attempt by a plaintiff to rescind her resignation should preclude that plaintiff from prevailing on a claim of constructive discharge.

CONCLUSION

A writ of certiorari should issue to review the judgment and decision below.

Respectfully submitted,

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APPENDIX

APPENDIX A

UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 98-30936

HELEN SIMPSON,
Plaintiff-Appellee,

versus

CITY OF SHREVEPORT,
Defendant-Appellant.

Appeal from the United States District Court for the Western District of Louisiana

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Before GARWOOD, SMITH, and BENAVIDES, Circuit Judges.

BENAVIDES, Circuit Judge:**

This discrimination case involves the appeal of the denial of a motion for judgment as a matter of law pursuant to Rule 50 of the Federal Rules of Civil Procedure. Finding a legally sufficient evidentiary basis to support the jury's verdicts of constructive discharge and retaliation, we affirm.

**Pursuant to 4th Cir, R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir, R. 47.5.4.

I. FACTUAL AND PROCEDURAL HISTORY

In March of 1992, Helen Simpson (Simpson) began working for the defendant, City of Shreveport (the City), as an operator/collector in the waste division of the Public Works Department. As an operator/collector, she drove garbage trucks and threw refuse onto the trucks. In November of 1993, she was promoted to supervisor in the waste division. She was the only female among thirteen supervisors in that division. From the time she was promoted until she made a sexual harassment complaint to the City in February of 1995, Simpson's fellow supervisors and her immediate supervisor, Milton Chambers, made lewd sexual comments daily in her presence.[1] Prior to making that complaint Simpson asked Chambers to stop the harassment. He had a meeting with the men harassing her, but because of Chambers' own involvement in the sexual banter Simpson did not believe that Chambers took the complaint seriously. Simpson also had private conversations with two of the men in an effort to stop the harassment to no avail.

On February 16, 1995, Simpson met with John Bonanno, a personnel analyst with the City. She reported that she was being harassed by her immediate supervisor, Chambers, and several co-workers, Kenneth Butler, Paul Stephens, William Flakes and Greg Cooper. At this meeting, Simpson showed Bonanno a journal she had kept of the sexual comments made by her supervisor and co-workers. Bonanno made a copy of several of the pates. He assured Simpson that he would investigate the allegations and take steps to end the

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[1]In light of the fact that the City does not appeal the jury's finding of sexual harassment, we do not see the need to list the many crude remarks and actions that were testified to at trial.

harassment. He also inquired whether she felt threatened and wanted to be removed from that environment, to which she responded that she just wanted the harassment to stop.

The next day, Bonanno called the director of Public Works, Tom Dark, who scheduled a meeting with each of the alleged harassers. They were informed of the accusations against them, warned that any such behavior should cease immediately, and instructed not to discuss the matter with Simpson (or anyone else) or retaliate against her.

Bonanno met with Simpson and advised her that the men had made allegations against her concerning sexual banter in the workplace. Although she denied some of the allegations, she admitted that in anger she had responded to some of the men's sexually explicit comments in kind. At the conclusion of the meeting, Bonanno advised Simpson that both she and the men she accused had participated in sexual harassment. He informed her that the investigation was closed and asked her to sign a piece of paper. Pursuant to his direction, she wrote, in pertinent part, "[t}his investigation has been done to my satisfaction. [signed] Helen Simpson."

Bonanno then sent a confidential memo to Dark, outlining his findings and recommending that a letter of instruction be sent to all parties. Based on this recommendation, Simpson and all of the men she accused of harassing her received a letter of instruction regarding sexual harassment from Dark. Additionally, all of the parties were specifically instructed to stop the offending behavior and provided with a copy of the City's harassment policy, which they were to read.

The next day Simpson informed Bonanno that she wanted to re-open the case because she was not satisfied with the investigation. He responded that the investigation had been completed, but that if she had something new, he would hear it. He also gave her a copy of the City's grievance procedure and told her she could appeal. Simpson admitted there was less sexual harassment after the investigation.

After having made the complaint of sexual harassment in February of 1995 she experienced many acts of retaliation from Chambers and her co-workers until she resigned in November of 1996. Meanwhile, on May 6, 1996, Simpson hurt her back lifting a refrigerator on the job. During the next six months she was at work only 12 full days. On her last full day of work, Chambers disciplined her for not communicating with him. She denied the charge, but was written up based on that accusation. Approximately two weeks later she resigned her employment. On the advice of her family, she made a request to rescind her resignation, which was denied.

Simpson filed suit against the City, seeking compensatory damages under Title VII on the grounds of sexual harassment, racial discrimination, constructive discharge, and retaliation. The case was tried before a jury. Pursuant to Rule 50, the city moved for judgment as a matter of law at the close of Simpson's case and at the close of all the evidence. The distrit court denied the motions from the bench. The jury awarded Simpson a lump sum of $150,000, finding the City liable for sexual harassment, constructive discharge, and retaliation.[2] The City now appeals the findings of constructive discharge and retaliation.

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[2]The jury rejected her claim of racial discrimination.

II. ANALYSIS

A. CONSTRUCTIVE DISCHARGE

The City contends that the district court erred in denying its Rule 50 motion for judgment as a matter of law with respect to Simpson's constructive discharge claim. This Court reviews de novo ruling on Rule 50 motions, using the same standards as those employed by the district court. Burch v. Coca-Cola Co., 119 F.3d 305, 313 (5th Cir. 1997). If a party has been fully heard on an issue, a district court may grant an opposing party's motion for judgment as a matter of law if "there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue." Fed.R.Civ.P. 50(a)(1). This Court reviews the entire trial record in the light most favorable to the non-movant, drawing reasonable factual inferences in its favor. Burch, 199 F.3d at 313. "The decision to grant a directed verdict . . . is not a matter of discretion, but a conclusion of law based upon a finding that there is insufficient evidence to create a fact question for the jury." Id. (internal quotation marks and citations omitted). "If the facts and inferences point so strongly and overwhelmingly in favor of the moving party . . . that reasonable jurors could not have arrived at a contrary verdict, then we will conclude that the motion should have been granted." Id.

Construction discharge may form the basis of a Title VII claim. Ward v. Bechtel Corporation, 102 F.3d 199, 202 (5th Cir. 1997). "'To show constructive discharge, an employee must offer evidence that the employer made the eployee's working conditions so intolerable that a reasonable employee would feel compelled to resign.'" Id. (quoting Barrow v. New Orleans S.S. Ass'n, 10 F.3d 292,297 (5th Cir. 1994).

The test is objective, looking to whether a reasonable employee would have felt compelled to resign. Barrow, 10 F.3d at 297 n. 19. Whether a reasonable employee would feel compelled to resign is fact-dependent. However, we have stated that whether the employee experienced any of the following is relevant to the determination: (1) demotion; (2) reduction in salary; (3) reduction in job responsibilities; (4) reassignment to menial or degrading work; (5) badgering, harassment; or humiliation by the employer calculated to encourage the employee to resign. Barrow, 10 F.3d at 197. The list is not exclusive. Id.

The City argues that Simpson failed to show constructive discharge because her sexual harassment claim was properly resolved, and she never complained of continuing sexual harassment. Thus, the city argues, any suggestion that her resignation was somehow triggered by sexual harassment that was reported and addressed 19 months earlier is simply too attenuated to support any legal inference connecting the two events.

We see two problems with the City's argument. First, the City's assertion that Simpson's sexual harassment claim was properly resolved ignores the jury's finding of sexual harassment, a verdict the City did not appeal. Indeed, in the special interrogatories, the jury expressly answered "no" to the following question: "Do you find . . . that [the City] promptly and reasonably investigated plaintiff's sexual harassment complaints and took prompt and reasonable remedial action?" We therefore must reject the assertion that

the City properly addressed and resolved Simpson's sexual harassment complaint.[3]

Second, the City focuses solely on the evidence of sexual harassment to argue there was an insufficient evidentiary basis to support a verdict of constructive discharge. This argument overlooks Simpson's evidence of retaliation. At trial, Simpson testified that Chambers and Cooper warned her "not to tell about the things that [were] going on in the office or [she] would find [herself] out of a job, find [herself] at home, wondering why [she] was not working." Chambers changed Simpson's route and made it difficult for her to leave work to see her physician. On the last day that Simpson actually worked, Chambers disciplined her for not communicating with him, a charge she denied. In relation to that disciplinary action, Chambers told Stephens "I f[---]ed her once again," and "[y]ou should have seen the look on that bitch's face when she got that write-up, when she got that letter of warning, which really was a write-up and this is strike three against her."

Simpson also testified that Chambers "put [her] crews on trucks with the bed coming loose from the frames. Some of them didn't have brakes." She was not given enough trucks or drivers to perform her job. On numerous occasions, someone hid the keys to her truck, deflated her truck's tires, threw away her gas cards, and locked the doors to her truck while the engine was running.

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[3]We also note that during oral argument counsel for the City conceded that a reasonable jury could have found that Simpson was sexually harassed.

In addition to the above retaliatory acts, there were threats of violence directed at Simpaon. Flakes and Cooper indicated that if there were charges lodged against them, they would "spray her house," which she understood to mean a drive-by shooting. Cooper threatened Simpson by telling her that he kept a gun on the job. Butler informed her that if anyone caused him to receive another "write-up." he would "beat their ass" if he caught them off the compound. Stephens told her "he would do a 'post office' on her house if someone wrote him up." Those types of threats continued until she left employment with the City.

The evidence that Simpson's supervisor purposely did not provide her with enough trucks and changed her truck routes arguably could fail under the fourth factor in Barrow regarding reassignment to menial or degrading work. More importantly, Simpson's evidence regarding the above sated retaliatory acts on the part of her immediate supervisor, Chambers,[4] and her fellow supervisors,[5] constituted

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[4]The City makes no argument on appeal regarding whether Chambers' actual knowledge of the retaliation may be imputed to the City. Chambers' duties as supervisor included hiring and discipling employees. *See, Sharp v. City of Houston*, 164 F.3d 923, 929-30 (5th Cir. 1999) (explaining that t "manager" under Title VII "includes someone with the power not only to hire and fire the offending employee but also to take disciplinary action"). Moreover, the jury was instructed that the City was responsible for Chamber's conduct regardless of whether the City knew or should have known of the harassment. The City does not challenge that instruction on appeal. Thus, for purposes of this appeal, Chambers' knowledge of any harassment or retaliatory conduct may be imputed to the City.

[5]Again, although there is no argument on appeal regarding imputation of knowledge to the City, there was evidence that a co-worker would call Chambers to inquire whether he could "do" certain

badgering, harassment, or humiliation by the employer calculated to encourage the employee's resignation, which is the sixth factor in Barrow.

To summarize, there is evidence that Simpson experienced severe and constant sexual harassment from November of 1993 (when Simpson was promoted to supervisor) until February of 1995 (when she filed a complaint with the City). Although the sexual harassment became less frequest after the investigation, it did not completely cease. After Simpson made her complaint of sexual harassment, Chambers and Simpson's co-workers began their retaliatory campaign against her. The evidence indicates that their retaliatory conduct was "calculated to encourage [Simpson's] resignation," Barrow, 10F.3d at 297. Viewed in the light most favorable to Simpson, we conclude that there was a legally sufficient evidentiary basis for a reasonable jury to find that her working conditions were so intolerable that a reasonable employee would have felt compelled to resign.[6] We therefore affirm the district court's

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things to Simpson, such as taking her trucks. The evidence indicated that Chambers talked to one of Simpson's co-workers regardinf the goal of forcing Simpson's resignation or termination. Additionally, Chambers and a co-worker told Simpson "not to tell about the things . . . in the office or [she] would find [herself] out of a job." Thus, viewing the record in the light most favorable to Simpson, as we must, there is evidence for a jury to infer that Chambers was aware of the co-workers' retaliatory acts. As previously set forth, Chambers' knowledge of such activities may be imputed to the City.

[6]The City also argues that because she only worked 12 days in the last six months of her employment and tried to rescind her resignation, her working conditions could not have been intolerable. Again, we must view this evidence drawing inferences in favor of Simpson. Although she had injured her back, another reason for her

denial of the City's rule 50 motion for judgment as a matter of law in regard to Simpson's construtive discharge claim.

B. RETALIATION

The City next contends that the district court erred in denying its Rule 50 motion for judgment as a matter of law with respect to Simpson's claim for retaliation. As set forth in more detail above, we review rulings on Rule 50 motions de novo.

To demonstrate a claim for retaliation, Simpson must prove (1) that she engaged in an activity that was protected; (2) an adverse employment action occurred; and (3) a causal connection existed between the participation in the activity and the adverse employment action. Webb v. Cardiothoracic Surgery Assoc., 139 F.3d 532, 540 (5th Cir. 1998). Here, we are concerned solely with ultimate employment decision. Id.

Simpson correctly asserts that by filing the formal complaint of sexual harassment with the City she engaged in an activity that was protected. Dollis v. Rubin, 77 F.3d 777, 781 (5th Cir. 1995) (explaining that "[t]here can be no question that [the employee's] retaliation claims satisfy the first element of the analysis, filing an administrative complaint is clearly protected activity"). Thus the first prong is satisfied.

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absence from work could have been that she found these working conditions to be intolerable. Moreover, on the last full day she actually worked, Chambers disciplined her for not communicating with him, a charge she asserts is false. That evidence indicates that the disciplinary action was, in effect, the "last straw" for Simpson. We are not persuaded that attempting to rescind one's resignation entitles the City to judgment as a matter of law.

In regard to the second prong, as discussed previously, we have determined that Simpson established a constructive discharge claim, which qualifies as an adverse employment action. See Sharp v. City of Houston, 164 F.3d at 933. Therefore, the second prong of this test is satisfied.

The evidence is sufficient to support the third prong regarding a causal connection between the protected activity and the adverse employment action, i.e., between the filing of the original sexual harassment complaint with the City and Simpson's constructive discharge. Indeed, the evidence indicates that Chambers and her co-workers expressly linked their threats and retaliatory acts to Simpson's making a sexual harassment complaint against them.

Thus, there was a legally sufficient evidentiary basis for a reasonable jury to find retaliation. We affirm the district court's denial of the Rule 50 motion for judgment as a matter of law with respect to the retaliation claim. Finally, we note that because we affirm the district court's denial of the City's Rule 50 motions, we need not reach the City's challenges to the "lump sum" damages award.

For these reasons, the district court's judgment is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

SHREVEPORT DIVISION

HELEN SIMPSON

VERSUS	CIVIL ACTION NO. 97-1234
CITY OF SHREVEPORT	JUDGE SHAW MAGISTRATE PAYNE

SPECIAL INTERROGATORIES TO THE JURY

1. Do you find by a perponderance of the evidence that the defendant, the City of Shreveport, sexually harassed the plaintiff, Helen Simpson, by creating a hostile work environment?

Answer Yes or No: ___yes_____

(Note:If you answered "Yes" to Question One, proceed to answer Question Two. If you answered "No" to Question One, proceed to answer Question Four.)

2. Do you find by a preponderance of the evidence that the City of Shreveport took tangible employment action against the plaintiff, Helen Simpson?

Answer Yes or No: ____no_____

3. Do you find by a preponderance of the evidence that the defendant, the City of Shreveport, promptly and reasonably investigated plaintiff's sexual harassment complains and took prompt and reasonable remedial action?

Answer Yes or No: ___no____

4. Do you find by a preponderance of the evidence that the defendant, the City of Shreveport, racially harassed the plaintiff, Helen Simpson, by creating a hostile work environment?

Answer Yes or No: ____no___

(Note:If you answered "Yes" to Question Four, proceed to answer Question Five. If you answered "No" to Question Four, proceed to answer Question Six.)

5. Do you find by a preponderance of the evidence that the defendant, the City of Shreveport, promptly and reasonably investigated plaintiff's racial harassment complaints and took prompt and reasonable remedial action?

Answer Yes or No: _____

6. Do you find by a preponderance of the evidence that the defendant, the City of Shreveport, retaliated against the plaintiff, Helen Simpson, because she filed a sexual harassment claim?

Answer Yes or No: ____yes_____

7. Do you find by a preponderance of the evidence that the defendant, the City of Shreveport, deliberately and intentionally made plaintiff's working conditions so intolerable that plaintiff and any reasonable employee would have felt compelled to resign?

Answer Yes or No: ____yes___

(Note:If you answered "Yes" to any of Questions One, Four, Six, or Seven, proceed to answer Question Eight. If you answered "No" to any of Questions One, Four, Six or Seven, please sign and date this form and tell the Marshal you are ready to return to the courtroom.)

8. Please state what amount of money that is required in order to compensate the plaintiff for the damages, if any, she suffered?

Answer in Dollars: $___150,000____

SO SAY WE ALL.

__s/Mrs. Trina Singleton_____

FOREPERSON
Shreveport, Louisiana

July _9_, 1998

A-15

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

SHREVEPORT DIVISION

HELEN SIMPSON

VERSUS — CIVIL ACTION NO. 97-1234

CITY OF SHREVEPORT — JUDGE SHAW
MAGISTRATE JUDGE PAYNE

JUDGMENT

This matter having come on for jury trial on July 6, 7, 8, and 9, 1998, Honorable John M. Shaw, United States District Judge, presiding, and the jury having returned its verdict in open court on July 9, 1998;

It is ordered that judgment be rendered herein in favor of plaintiff Helen Simpson and against the City of Shreveport, in the amount of $150,000.00, plus legal interest from date of judicial demand until paid, reasonable attorney's fees, and costs of this proceeding.

Thus done and signed in chambers, at Lafayette, Louisiana, on July 13th, 1998.

s/John M. Shaw
John M. Shaw
United States District Judge

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

SHREVEPORT DIVISION

HELEN SIMPSON	
VERSUS	CIVIL ACTION NO. 97-1234
CITY OF SHREVEPORT	JUDGE SHAW MAGISTRATE JUDGE PAYNE

(Proceedings include all events - Simpson v. Shreveport)

DATE		PROCEEDING
06/23/97	--	Filing fee paid; amount of fee $150.00 receipt no. 72458. (dm)
06/23/97	--	Case assigned to Magistrate Judge Roy S. Payne for discovery (Sd) [entry date 06/25/97]
06/23/97	1	Complaint filed; jury demand (sd) [entry date 06/25/97]

06/23/97	2	Summons(es) issued for City of Shreveport (sd) [entry date 06/25/97]
07/07/97	3	Return of service executed as to City of Shreveport on 6/26/97 answer due on 7/16/97 for City of Shreveport (dh)
07/08/97	4	Motion by City of Shreveport to extend time time to file responsive pleadings with Proposed Order referred to Magistrate Judge Roy S. Payne (dh) [entry date 07/09/97]
07/15/97	5	Order granting [4-1] motion to extend time time to file responsive pleadings; reset answer due for 8/14/97 for City of Shreveport. (signed by Magistrate Judge Roy S. Payne) NOE by: sjd (sd) [entry date 07/16/97]
07/30/97	6	Order; set scheduling conference for 2:30 8/28/97 before Magistrate Judge Roy S. Payne. (Signed by Magistrate Roy S. Payne) NOE by: sjd (sd)
08/13/97	7	Answer to Complaint and CNTERCLM by City of Shreveport against Helen Simpson (dh) [Entry date 08/14/97]
08/14/97	8	Notice by City of Shreveport to take deposition of Helen Simpson on 10/20/97 at 10:00 a.m. in Bossier City, La (dh) [entry date 08/18/97]

08/29/97	--	Scheduling conference held on 08/29/97 before Magistrate Judge Payne (sd) [entry date 09/23/97)
09/22/97	9	Scheduling order; jury trial set for 9:00 4/27/97; pretrial conference for 11:00 3/27/97; joining of parties, amding of pleadings on 9/30/97; pltf's expert info/rpts due 12/5/97; discovery due 1/30/98; Note: The parties have reserved October 31 and November 6, 1997 for depositions to be noticed in this case; Dft's expert info/rpts due 1/30/98; pretrial order to be submitted on or before 3/17/98; deadline for filing of all motions 1/30/98; expert depositions due 2/27/98; conference to prepare PT stips set for 2/25/98; motions in limine due 3/12/98; trial depositions due 4/6/98; trial inst., interr., etc. due 4/17/98; witness list due 12/5/97; deadlines set before Judge Donald E. Walter. (Signed by Magistrate Judge Roy S. Payne) NOE by: sjd (sd) [entry date 09/23/97]
11/21/97	10	Witness list by Helen Simpson (dh) [entry date 11/25/97]
11/21/97	10	Exhibit list by Helen Simpson (dh) [entry date 11/25/97]
11/25/97	11	Notice by City of Shreveport to take deposition of Helen Simpson on 1/7/98

		at 9:00 a.m. in Bossier City, La (dh) [entry date 11/28/97]
12/19/97	12	Witness list by City of Shreveport (dh) [entry date 12/23/97]
12/19/97	12	Exhibit list by City of Shreveport (dh) [entry date 12/23/97]
03/17/98	--	Proposed pre-trial order received from Helen Simpson, City of Shreveport; referred to champers (tr) [entry date 03/18/98]
03/27/98	--	Pre-trial conference held (tr) [entry date 04/02/98]
03/27/98	14	Minute entry: of pretrial conference held 3/27/98, David White appeared for pla and Bryce Denny appeared for dft. Trial expected to last 2-3-days. Counsel allowed 3 peremptory challenges each and 15 minutes for opening statements. Pretrial order is adopted as filed. Other court instructions regarding jury instructions, glossary of names, real-time court reporting, and use of court room equipment. Jury questionnaires available after 12:00 noon on Friday before trial. (Signed by Judge Donald E. Walter) NOE by: jak jak (tr) [entry date 04/01/98]

03/30/98	13	Pretrial order filed with attached witness and exhibit lists and proposed jury instructions, interrogatories and voir dire questions (signed by Judge Donald E. Walter) (tr) [entry date 04/01/98]
04/13/98	15	Motion by City of Shreveport to continue trial with proposed order referred to Magistrate Judge Roy S. Payne (sd) [entry date 04/14/98]
04/16/98	--	Motions transferred: [15-1] motion to continue trial referred to Judge Donald E. Walter (tr)
04/16/98	16	Order granting [15-1] motion to continue trial reset jury trial for next available trial setting before Judge Donald E. Walter (signed by Judge Donald E. Walter) NOE by: jak (tr) [entry date 04/20/98]
04/27/98	17	Minute entry: in accordance with dft's motion to continue;; reset scheduling order deadlines: jury trial set for 7/6/98; pretrial conference for 9:30 6/12/98; motions in limine due 5/28/98; before Judge Donald E. Walter (signed by Judge Donald E. Walter) NOE: by cd (tr) [entry date 04/28/98]

06/05/98	18	Motion by Helen Simpson to continue issuance of subpoenas with proposed order referred to Magistrate Judge Roy S. Payne (tr) [entry date 06/08/98]
06/09/98	19	Order granting [18-1] motion to continue issuance of subpoenas for trial on 7/6/98. Plaintiff must serve a copy of this order to respective individuals (signed by Judge Donald E. Walter). NOE by: jak (tr) [entry date 06/11/98]
06/12/98	--	Pre-trial conference held (tr) [entry date 06/15/98]
06/12/98	20	Minute entry; regarding pretrial conference held on 6/12/98 with White for pla, and Barker for dft (signed by Judge Donald E. Walter). NOE by: jak (tr) [entry date 06/15/98]
06/23/98	21	Motion by City of Shreveport to file Motion to Admit Pla's Sexual Behavior under FRE 412 under seal with proposed order referred to Magistrate Judge Roy S. Payne (tr [entry date 06/24/98]
06/23/98	22	Motion with brief by City of Shreveport to admit plaintiff's sexual behavior under FRE 412 after an in-camera hearing with proposed order referred to Magistrate Judge Roy S. Payne (DOCUMENT PLACED

		UNDER SEAL PURSUANT TO ORDER (DOC #27) - PLACED IN S'PORT VAULT). (tr) [entry date 06/24/98] [edit date 07/08/98]
06/29/98	23	Proposed jury instructions by Helen Simpson, City of Shreveport (tr) [entry date 06/30/98]
06/29/98	24	Joint proposed jury verdict filed by Helen Simpson, City of Shreveport (tr) [entry date 06/30/98]
06/29/98	25	Affidavit of settlement efforts filed by Helen Simpson, City of Shreveport (tr) [entry date 06/30/98]
06/29/98	26	Offer of judgment by City of Shreveport in favor of Helen Simpson (tr) [entry date 06/30/98]
07/06/98	28	Order granting [22-1] motion to admit plaintiff's sexual behavior under FRE 412 after an in-camera hearing to be held on 7/6/98 at pretrial conf; as there is no opposition, motion is granted (signed by Judge John M. Shaw). NOE by: jak (tr) [entry date 07/08/98]
07/06/98	30	Minutes of court from trial wi/jury 1st day; appearances by White for pla and Barker for dft; jury given preliminary instruction; opening statements; testimony/evidence for pla commenced;

		jurors selected and sworn. A pretrial conference held in chambers. Stipulation that a jury of 7 would be seated. If for good cause shown and 2 jurors are excused, deliberations would proceed with a jury of 5. Court read a stipulation prepared by counsel to the jury (by Judge John M. Shaw). Court Reporter: Christine Bordenave. NOE by: cd (tr) [entry date 07/20/98]
07/06/98	--	Pre-trial conference held (tr) [entry date 07/20/98]
07/06/98	31	Peremptory challenges by Helen Simpson, City of Shreveport (tr) [entry date 07/20/98]
07/07/98	27	Order granting [21-1] motion to file Motion to Admit Pla's Sexual Behavior under FRE 412 under seal (signed by Judge John M. Shaw). NOE by: thr (tr) [entry date 07/08/98]
07/07/98	32	Minutes of court from jury trial 2nd day; witnesses sequestered; testimony/evidence for pla and dft concluded; rebuttal testimony/evidence concluded; evidence closed; case argued; jury instructed. Oral motion on behalf of dft at close of evidence and testimony of pla for jgm as a matter of law on constructive discharge, submitted and denied. Oral

		motion on behalf of dft at close of evidence and testimony of pla for jgm as a matter of law on retaliation of constructive discharge, submitted and denied. Oral motion on behalf of dft at close of all evidence and testimony reurging previous oral motions, submitted and denied. A jury charge conference was held in chambers. It was stipulated by counsel that should the jury answer yes to interog #1, no to interrog #32 and yes to interrog #3, then there is not sexual harrassment and no damages (by Judge John M. Shaw). Court Reporter: Christine Bordenave. NOE by: cd (tr) [entry date 07/20/98]
07/07/98	33	Jury Instructions (tr) [entry date 07/20/98]
07/08/98	34	Minutes of court from trial w/jury 3rd day; notes from jury filed; jury deliberations began at 9:00. Court ordered US Marshal to furnish food and beverages to the jury during deliberations. At 5:00 the jury was dismissed to return at 9:00 a.m. on 7/9/98 to continue its deliberations (by Magistrate Judge Roy S. Payne) Court Reporter/Tape No: NOE by: mwc (tr) [entry date 07/20/98] [edit date 07/20/98]

07/08/98	35	Jury notes filed (tr) [entry date 07/20/98]
07/09/98	36	Minutes of court from trial w/jury 4th and final day; jury verdict form filed; jury verdict returned at 10:25; jury polled. Jury returned verdict in favor of pla and against dft in amount of $150,000. Ms. Trina R. Singlton served as foreman to the jury. A judgment in accordance with the verdict of the jury shall issue in due course from Judge Shaw who presided over the trial of the case. At 10:30, the jurors were dismissed and it was ordered that court before M/J Payne was adjourned (by Magistrate Judge Roy S. Payne) Court Reporter; Karen Tyler NOE by: mwc (tr) [entry date 07/20/98]
07/09/98	37	Jury verdict for Helen Simpson (tr) [entry date 07/20/98]
07/09/98	38	Trial exhibit list (tr) [entry date 07/20/98]
07/13/98	--	Case reassigned to Judge John M. Shaw for trial (tr) [entry date 07/14/98]
07/13/98	29	Judgment in accordance with jury trial held on July 6-9, 1998; jury verdict for Helen Simpson against City of Shreveport in the amount of

		$150,000.00, plus legal interest from date of judicial demand until paid, reasonable attorney fees, and costs of this proceeding (signed by Judge John M. Shaw) (tr) [entry date 7/14/98]
07/13/98	--	Case closed (tr) [entry date 07/14/98]
07/14/98	39	Order that US Marshal furnish food and beverage to jury during deliberations at government expense (signed by Judge Donald E. Walter). NOE by: cd to financial (tr) [entry date 07/20/98]
07/21/98	40	Motion by Helen Simpson to tax costs and for attorney fees in accordance with judgment rendered 7/13/98 in favor of pla, motion day set for 8/18/98 for [40-1] motion before John M. Shaw. Notice issued. (tr) [entry date 07/23/98]
08/04/98	41	Motion by City of Shreveport for stay of judgment upon appeal with proposed order referred to Judge John M. Shaw (bj) [entry date 08/06/98] [edit date 08/05/98]
08/04/98	42	Notice of appeal by City of Shreveport from [29-1] judgment order entered on 7/14/98 by Judge John M. Shaw. Fee status paid, filing fee $105.00; appeal

		transcript order due on 8/14/98 (bj) [entry date 08/05/98]
08/05/98	--	Transmittal of notice of appeal and certified copy of docket to USCA: [42-1] appeal NOE to Judge John M. Shaw, Court Reporter, Courtroom Deputy and Attorneys: David L. White, S. Price Barker w/transcript order form (bj)
08/10/98	43	Order granting [41-1] motion for stay of judgment upon appeal, provided the City of Shreveport file and have approved by this court on or before 8/15/98 a supersedeas bond in the sum of $10,000.00, conditioned for the satisfaction of the judgment in full, together with costs, interest, and damages for delay, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and costs, interest, and damages as the appellate court may adjudge and award. (signed by Judge John M. Shaw) NOE by: cgl (bj) [entry date 08/12/98]
08/12/98	--	**record location flag set to LAF; (1 volumes, 1 exhibit folders) (tr) [entry date 08/13/98]

08/12/98	44	Statement of attorney's time and expenses by Helen Simpson (sd) [entry date 08/14/98]
08/13/98	45	Supersedeas bond $10,000.00 surety entered by City of Shreveport; surety; Travelers Casualty & Surety Co. of America (sd) [entry date 08/17/98]
08/18/98	46	Order granting [40-1] motion to tax costs and for attorney fees in accordance with judgment rendered 7/13/98 in favor of pla in the amount of $12,762.50 in attorney fees and $214.75 in costs. (Signed by Judge John M. Shaw) NOE by: sjd (sd) [entry date 08/19/98]
08/18/98	47	Transcript requested regarding [42-1] appeal by City of Shreveport for proceedings of all testimony on 7/6-9/98 before Judge John M. Shaw; Ct report: Karen Tyler; Transcript due 9/17/98 (bj) [entry date 08/26/98]
08/18/98	48	Transcript requested regarding [42-1] appeal by City of Shreveport for proceedings of all testimony on 7/6-9/98 before Judge John M. Shaw; Ct. reporter: Christine Bordenave; Transcript due 9/17/98 (bj) [entry date 08/26/98]

09/08/98	--	Notice of docketing ROA from USCA RE: [42-1] appeal USCA Number: 98-30935 (bj)
10/05/98	49	Transcript filed re: [42-1] appeal for dates of 7/9/98 before Magistrate Judge Roy S. Payne (Court Reporter: Karen Tyler; 1 Volumes; 5 pages) (bj)
10/13/98	--	Removed record location flag. (tr) [entry date 10/14/98]
10/27/98	50	Transcript filed re: [42-1] appeal for dates of 7/6-7/98 before Judge John M. Shaw appeal record due 11/11/98. (Court Reporter: Christine Bordenave; 2 volumes; 355 pages) (bj) [entry date 10/29/98]
11/02/98	--	Transmitted record on appeal to U.S. Court of Appeals: [42-1] appeal; consisting of 1 volumes of record, 1 containers of Exhibits, 3 volumes of transcript, 1 sealed document #22. NOE to Judge John M. Shaw, Court Reporter, Courtroom Deputy Attorneys: David L. White, S. Price Barker (bj)